IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 449 of 1988

in

SPECIAL CIVIL APPLICATIONNo 6048 of 1988

Date of Decision: 22.7.2004

ANITABEN AMBALAL PATEL

Versus

DIST PANCHAYT KHEDA

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved f

For the Appellants-1-2 Mr.Adv.P.V.Hathi
For the Appellant-3 Mr.Adv.

For the Respondent-4 Ms.AGP Manisha Lavkumar
For the Respondent-1-2 [Served]

PER: HON'BLE THE CHIEF JUSTICE (ORAL):-

This appeal arises out of the order of Single Judge dated October 27, 1988. Appellants-original petitioners were appointed as Craft Teachers. Initially, they did not possess requisite educational qualifications for the posts in question viz. Diploma of TCWCG or Diploma of TDNC. They are possessing Diploma

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Whether reporters of Local Papers may be allowed to see the Judgment?

of T & C. This qualification is not mentioned in Government Circulars dated October 22, 1970 and February 15, 1973. Accordingly, they were terminated by order dated September 5, 1988 by District Primary Education Officer [Kheda]. The appellants challenged this order through Special Civil Application No.6048 of 1988. During pendency of that petition, they continued in service. Thereafter, Single Judge dismissed the petition, however, stay against termination was continued for some time. The appellant challenged this order through this appeal and got interim order for continuance in service which was later made absolute. In case the appellants were not qualified, they should not have been selected. Since they had placed their testimonials before the selecting authority, they did not commit any fraud or misrepresentation for the selection to the posts in question. Lapse, if any, can be of the appointing authority but not of the appellants. Their selection has not been challenged by any other person. Since 1985 they are performing their duties, as such, there is no complaint against their efficiency, conduct or character. They have also acquired requisite qualification in the mean time. In this background, it would be unjust to terminate their service after twenty years on ground of qualification which was not considered properly by appointing authority and which they have acquired. By now, they have acquired the qualification as well as long experience.

Therefore, appeal is allowed. Order of Single Judge is set aside. Service of the appellants be not terminated and they shall continue in service.

Accordingly, Appeal stands allowed with no order as to costs.

[Bhawani Singh]
Chief Justice

Date : 22.7.2004   [H.K.Rathod]
 Judge

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